

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,) 4:08CR3067
)
)
v.) MEMORANDUM
) AND ORDER
GARY ZIERKE JR.,)
)
)
Defendant.)
)

Because the United States Court of Appeals has denied Zierke authorization to file a successive habeas application and because I am convinced that *Beckles* applies in any event,

IT IS ORDERED that the motion (filing no. 309) to vacate under 28 U.S.C. § 2255 based upon the *Johnson* decision is denied and dismissed with prejudice. No certificate of appealability has been or will be issued. The Federal Public Defender is relieved of all further responsibility in representing Zierke. A separate judgment will be issued.

DATED this 5th day of October, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge